

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

JESSIE F. TRUITT,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-21-929-J
)	
CARL BEAR, et al.,)	
)	
Defendants.)	

ORDER

Plaintiff, a state prisoner appearing pro se and in forma pauperis, brings this action pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights. The matter was referred to United States Magistrate Judge Gary M. Purcell for initial proceedings consistent with 28 U.S.C. § 636. [Doc. No. 4]. On June 17, 2022, Judge Purcell issued a Report and Recommendation recommending that Defendants Carl Bear and Scott Crow's Motion to Dismiss, converted to a motion for summary judgment, be granted and Plaintiff's claims against Defendant Russell Serventi be dismissed without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B) based on Plaintiff's failure to exhaust administrative remedies and therefore, failure to state a claim upon which relief could be granted. [Doc. No. 37]. Plaintiff was advised of his right to object to the Report and Recommendation by July 7, 2022. No objection has been filed. Plaintiff has therefore waived any right to appellate review of the factual and legal issues in the Report and Recommendation. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

Accordingly, the Court ADOPTS the Report and Recommendation [Doc. No. 37], GRANTS Defendants Bear and Crow's Motion to Dismiss [Doc. No. 28], converted to a motion for summary judgment, and DISMISSES without prejudice Plaintiff's claims against Defendant

Serventi pursuant to 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim upon which relief could be granted.

IT IS SO ORDERED this 26th day of July, 2022.

A handwritten signature in blue ink, appearing to read "B.M.J.", is written above a horizontal line.

BERNARD M. JONES
UNITED STATES DISTRICT JUDGE